

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	
Communications Policy Act of 1984 as amended)	MB Docket No.
05-311		
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	
)	

**COMMENTS OF
MARTIN COUNTY, FLORIDA
IN RESPONSE TO THE FURTHER NOTICE
OF PROPOSED RULEMAKING**

Martin County, Florida submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking ("Further Notice").

1. The Board of County Commissioners is the local franchising authority for Martin County, Florida. There are two cable franchises within our jurisdiction that are under common control and those franchises are due to expire in three years. At one time, Martin County was served by two cable systems under independent ownership that were allowed to compete, but chose not to.

2. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order should apply to

incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a) (1) of the Communications Act, 47 U.S.C. § 541(a) (1) which prohibits LFA's from unreasonably refusing to award competitive franchises to provide cable services. Martin County does not believe the FCC has sufficient information from its prior rulemaking to find that renewals are a factor in LFA's unreasonably prohibiting a competitive franchise grant to provide cable services. Renewals have been governed by Federal law as it has evolved since 1982 and only the rarest renewal has resulted in the parties going to court, which is the final step in the renewal process as allowed by law. In some local governmental jurisdictions, like Martin County, there have been or are two cable companies serving the community for many years and there has been no court case that we know of indicating that renewal of the incumbent was a factor in unreasonably prohibiting a competitive franchise to provide cable services. Martin County renewed an incumbent operator after a competitive franchise to provide cable services had previously been granted. Based on Martin County's experience and that of other municipalities with competitive franchisees, additional regulation is not necessary to ensure that renewals do not serve to prompt a LFA to unreasonably prohibit the grant of a competitive franchise.

3. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that

those rulings are unnecessary to promote competition, violate the Cable Act's goal of ensuring that a cable system is "responsive to the needs and interests of the local community," 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. The Board of County Commissioners has regulated Marin County franchises since cable was constructed in the County and has always reflected the needs and interest of the community. We believe Martin County and other LFA's have been and are in the best position to ensure that cable services are responsive to the needs and interests of communities. Regarding competition, the County does not believe that Federal regulations will promote competition in the County. The County believes that competition is not slowed by franchising, it is slowed by practical realities of construction, massive construction costs, Wall Street reviews, and buy rates.

4. The Further Notice seeks findings on most favored nation clauses that may be included in franchises. Martin County is regulated by a Florida State law requiring a level playing field for cable franchising. This law has been in place and has been used without problem when Martin County had two franchisees that were not under common control. We believe no Federal action is required and that level playing field clauses do not pose a barrier to market entry for a new competitor providing cable services.

5. Martin County agrees with the Further Notice's conclusion that the FCC cannot preempt State or local customer service laws that exceed the

Commission's standards, nor prevent LFA's and cable operators from agreeing to more stringent standards. LFA's have effectively used these regulations to improve customer service in areas throughout the US. Congress, knowing that local governments hear the complaints from their constituents, has given the local governments the ability to effect improvement where it is needed.

6. We support and adopt the comments of the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, the Alliance for Community Media, and the Alliance for Communications Democracy, filed in response to the Further Notice.

Respectfully submitted,

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